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7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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11 MASTEROBJECTS, INC.,

12 Plaintiff,

13 v.
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15 EBAY, INC.,

16 Defendant.
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Case No. 12-00680 JSC

**ORDER RE: JOINT DISCOVERY
LETTER BRIEF REGARDING
PRODUCTION OF PRINTED
SOURCE CODE (Dkt. No. 89)**

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19 Now pending before the Court is a Joint Discovery Letter Brief whereby Plaintiff
20 MasterObjects, Inc.'s ("MasterObjects") seeks to compel Defendant eBay, Inc., ("eBay") to
21 produce an additional 410 pages of printed source code. After carefully considering the
22 arguments and briefing submitted, the Court concludes that oral argument is unnecessary, *see*
23 Civ. L.R. 7-1(b), and DENIES MasterObjects' motion to compel.

24 Pursuant to Northern District Local Rule 2-2, this case is governed by the Northern
25 District Model Protective Order for Litigation Involving Patents, Highly Sensitive
26 Confidential Information and/or Trade Secrets ("Protective Order"). Under the Protective
27 Order, a "Party may request paper copies of limited portions of source code that are
28 reasonably necessary for the preparation of court filings, pleadings, expert reports, or other
papers, or for deposition or trial, but shall not request paper copies for the purposes of

1 reviewing the source code other than electronically as set forth in paragraph (c) in the first
 2 instance.” *Id.* at ¶ 9(d). If the Producing Party objects to production of printed source code,
 3 the dispute is governed by the “dispute resolution procedure and timeframes set forth in
 4 Paragraph 6 whereby the Producing Party is the ‘Challenging Party’ and the Receiving Party
 5 is the ‘Designating Party’ for purposes of dispute resolution.” *Id.* The Receiving/Designating
 6 Party bears the burden of persuasion in any dispute under Paragraph 6. *Id.* at ¶ 6.3.

7 Here, MasterObjects as the Receiving/Designating Party bears the burden of
 8 persuading the Court that the requested 410 pages of printed source code are necessary.
 9 MasterObjects has failed to carry its burden. In support of its motion, MasterObjects makes a
 10 perfunctory statement that “[i]n this district, a plaintiff has an obligation to explicated source
 11 code in an infringement report; infringement is ours to prove...the plaintiff must walk through
 12 the code processing path, must tie function to code, and then tie the entire infringing system to
 13 the claims limitations.” (Dkt. No. 89 at p. 2.) Without the printed pages, MasterObjects
 14 contends that its experts would be “forced to rely on unaided memory in writing detailed and
 15 technical expert reports.” (*Id.*) According to eBay, it has already produced 283 pages of
 16 printed source code.

17 MasterObjects has failed to demonstrate that it is entitled to anything more. If
 18 MasterObjects’ bald insistence that its experts need the requested source code were sufficient
 19 to meet its burden, the limitation on producing only those printed copies that are “reasonably
 20 necessary” would be meaningless. The question is why the additional pages requested are
 21 necessary. As MasterObjects has not established why, its motion to compel further
 22 production of printed source code is DENIED.

23 This Order disposes of Docket No. 89.

24 **IT IS SO ORDERED.**

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 26 Dated: October 15, 2013

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 28 JACQUELINE SCOTT CORLEY
 UNITED STATES MAGISTRATE JUDGE